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Document Description: Petition for review by the Office of Petitions

PTO/SB/648 (06-08)

Approved for use through 06/30/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))		Docket Number (Optional) Client No. 831-0002 Customer No. 29855	
First named inventor: <u>Adam M. Kennedy</u>			
Application No.: <u>10/688,708 USP 7,084,010</u>		Art Unit: <u>was 1714</u>	
Filed: <u>10/17/2003 Issue 8/1/2006</u>		Examiner: <u>was Peter A. Szekely</u>	
Title: <u>INTEGRATED PACKAGE DESIGN AND METHOD FOR A RADIATION SENSING DEVICE</u>			
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (571) 273-8300			
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.			
The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).			
PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)			
1. Petition fee <input type="checkbox"/> Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. <input checked="" type="checkbox"/> Other than small entity - fee \$ <u>\$1620</u> (37 CFR 1.17(m)) Please charge the petition fee to our Deposit Account No. 501922			
2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c)) Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is <u>October 18, 2004</u> .			

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This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64a (06-09)

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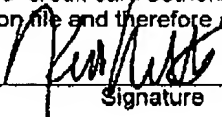
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

 _____ Signature	_____ Date
Keith A. Rutherford _____ Type or Printed Name	36262 _____ Registration Number, if applicable
20333 SH 249, Ste. 600 _____ Address	832-446-2400 _____ Telephone Number
Houston, TX 77070 _____ Address	

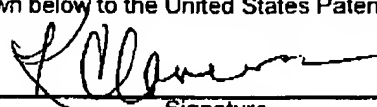
Enclosures: ☐ Fee Payment☐ Additional sheets containing statements establishing unintentional delay☒ Other: Attached Decl is basis for declaring that abandonment was unintentional**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

June 22, 2009

Date



Signature

Kay Clavenna

Typed or printed name of person signing certificate

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent No.:	§	CUSTOMER NO. 29855
7,084,010	§	
	§	
	§	
	§	
Issued: August 1, 2006	§	Docket No. 831-0002
	§	
Filed: October 17, 2003	§	Art Unit 1714
	§	
Entitled: INTEGRATED PACKAGE	§	Examiner: Peter A. Szekely
DESIGN AND METHOD FOR A	§	
RADIATION SENSING DEVICE	§	
	§	

DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.137(b)
TO REVIVE A LAPSED PATENT PURSUANT TO 37 C.F.R. §1.137(f)

To whom it may concern:

I declare as follows:

1. I am Senior Counsel, Intellectual Property & Licensing for Raytheon Company. I have been in my position at Raytheon for three and a half years.
2. In late 2007 I learned that Raytheon's patent, U.S. Patent No. 7,084,010, ('010 patent) may have been deemed abandoned based on the fact that upon filing the underlying application Raytheon had filed a non-publication request, but had later filed non-U.S. applications claiming priority from the '010 Application without filing a rescission of the non-publication request.
3. In late 2007 Raytheon, and more particularly my department and I were deeply involved in a patent and trade secret litigation that was taking much of our attention and resources in addition to other pressing routine matters in our department. As I was not involved in the original application work on the '010 patent, I needed to investigate this matter to determine what occurred. I did not have time to do that when I first learned of the issue. The attorney handling the '010 patent had retired and moved to Chile.


4. When our trial schedule in the case that was taking my extra time got delayed significantly early this year I was able to investigate what occurred with the '010 patent.
5. Based on my investigation, the Raytheon attorney handling the application for the '010 patent unintentionally failed to follow his own practice of initially filing non-publication requests, then subsequently filing rescission of the non-publication requests when he directed outside counsel to foreign file the application. Based on my investigation, Raytheon and Raytheon personnel were unaware that the '010 patent was deemed abandoned until that fact was discovered and brought to our attention in late 2007.
6. Since late 2007, the matter has been in my control. Throughout the remainder of 2007 and 2008 my duties did not permit me the time to investigate what had happened. In 2009 when I got a chance to investigate I located contact information for attorney Bill Schubert, formerly of Raytheon Vision Systems, now retired in Chile, and asked him about the '010 patent. He indicated that while he did not remember the specific application, that it was his/Raytheon Vision Systems' practice at the time to initially file a non-publication request and then rescind those requests when foreign filing. He indicated that he never intentionally filed foreign applications without rescinding the non-publications requests so that in his practice, if that is what happened in the '010 Application, it was clearly unintentional.
7. Based on this discussion, I investigated for myself what processes appeared to be followed in 2003 when filing applications out in the Raytheon Vision Systems division. I was able to confirm that indeed that of the six applications filed from that particular division in 2003, including the '010 Application, all initially had non-publication requests, and all but the '010 Application had rescinded the non-publication requests prior to foreign filing. It is further apparent that the abandonment of the '010 patent was unintentional because Raytheon continued to prosecute the '010 patent and paid the issue fee to have it issue as a patent.
8. Based on the facts stated herein to the best of my knowledge, the circumstances causing the '010 patent to be deemed abandoned were unintentional both at the

time and up until the date of submission of the Petition to Revive this Declaration is provided in support of.

9. It appears from both my discussion with Bill Schubert and my own investigation that Raytheon inadvertently failed to follow its practice of filing rescission requests when we foreign filed the '010 Application. The fact that we had failed to file the rescission request did not appear to come to Raytheon's attention until late 2007. Since that time, Raytheon has had no intention to abandon the '010 patent, but rather wanted to thoroughly investigate the facts before making this Petition to Revive.

I declare under the penalties of perjury of the laws of the United States and the State of Texas that the foregoing is true and correct.

Executed this 22nd day of June 2009 in Plano, Texas



Saint St. Julian
Senior Counsel
Intellectual Property & Licensing
Raytheon Company